

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM P. DRUCKLIEB,)
)
)
Plaintiff,) 8:19CV279
)
)
v.)
)
)
CARA RYAN,)
)
)
Defendant.)
)

**MEMORANDUM
AND ORDER**

Plaintiff, a non-prisoner, has been given leave to proceed in forma pauperis. (Filing No. 5.) The court now conducts an initial review of Plaintiff's claims to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2) (requiring the court to dismiss actions filed in forma pauperis if they are frivolous or malicious, fail to state a claim on which relief may be granted, or seek monetary relief against a defendant who is immune from such relief).

I. SUMMARY OF COMPLAINT

Plaintiff's only factual allegations refer to Defendant's "malicious and negligent interference with a publicly funded education through ongoing harassment, defamation, false swearing and damages to personal property beginning April 20, 2018 to present." (Filing No. 1 at CM/ECF p. 4.) Plaintiff purports to bring an equal protection claim, as well as claims under the Rehabilitation Act of 1973, 29 U.S.C. § 794, *et seq.*, the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*, and the Age Discrimination Act of 1975, 42 U.S.C. § 6101, *et seq.* (prohibiting discrimination on the basis of age in programs or activities receiving federal financial assistance). (*Id.* at p. 3.) Plaintiff seeks recovery for "losses of tuition, losses of educational materials, lost educational opportunities and lost wages . . . in the amount of \$1,000,000. Unspecified damages for loss of future wages and punitive damages." (*Id.* at p. 4.)

II. STANDARDS ON INITIAL REVIEW

The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See* 28 U.S.C. § 1915(e). The court must dismiss a complaint or any portion of it that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

Pro se plaintiffs must set forth enough factual allegations to “nudge[] their claims across the line from conceivable to plausible,” or “their complaint must be dismissed.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 569-70 (2007); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”).

“The essential function of a complaint under the Federal Rules of Civil Procedure is to give the opposing party ‘fair notice of the nature and basis or grounds for a claim, and a general indication of the type of litigation involved.’” *Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (quoting *Hopkins v. Saunders*, 199 F.3d 968, 973 (8th Cir. 1999)). However, “[a] pro se complaint must be liberally construed, and pro se litigants are held to a lesser pleading standard than other parties.” *Topchian*, 760 F.3d at 849 (internal quotation marks and citations omitted).

III. DISCUSSION

The court has reviewed Plaintiff’s Complaint, keeping in mind that complaints filed by pro se litigants are held to less stringent standards than those applied to formal pleadings drafted by lawyers. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). However, as set forth above, even pro se litigants must comply with the Federal Rules of Civil Procedure. Federal Rule of Civil Procedure 8 requires that every complaint contain “a short and plain statement of the claim showing that the pleader is entitled

to relief” and that “[e]ach allegation . . . be simple, concise, and direct.” Fed. R. Civ. P. 8(a)(2), (d)(1). A complaint must state enough to “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (quoting *Twombly*, 550 U.S. at 555). Here, Plaintiff’s Complaint fails to meet this minimal pleading standard.

On the court’s own motion, Plaintiff shall have 30 days from the date of this Memorandum and Order to file an amended complaint that sufficiently describes his claims against Defendant. *Plaintiff should be mindful to clearly explain what Defendant did to him, when Defendant did it, and how Defendant’s actions harmed him.* If Plaintiff fails to file an amended complaint in accordance with this Memorandum and Order, his claims against Defendant will be dismissed without prejudice and without further notice. The court reserves the right to conduct further review of Plaintiff’s claims pursuant to 28 U.S.C. § 1915(e)(2) after he addresses the matters set forth in this Memorandum and Order.

IT IS ORDERED:

1. On the court’s own motion, Plaintiff will have 30 days from the date of this Memorandum and Order to file an amended complaint that complies with Federal Rule of Civil Procedure 8. Failure to do so will result in dismissal of this matter without further notice.
2. The clerk’s office is directed to set a pro se case management deadline in this matter: August 12, 2019—deadline for Plaintiff to file amended complaint.

DATED this 11th day of July, 2019.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge